

**REMARKS**

Applicants have carefully reviewed the Application in light of the Office Action transmitted September 20, 2007 ("*Office Action*"). Claims 1-54 are pending in the Application, and the Examiner rejects all pending claims. Applicants respectfully request reconsideration of the pending claims and favorable action in this case.

**I. Double Patenting Rejections**

**A. Application No. 10/804,528:**

The Examiner provisionally rejects Claims 1-54 on the ground of nonstatutory obviousness-type double patenting as unpatentable over claims 1-34 of co-pending Application No. 10/804,528. As this is a provisional double patenting rejection, Applicants defer the decision to file a terminal disclaimer or traverse the rejection until the Examiner has indicated that both the present Application and co-pending Patent Application No. 10/804,528 include allowable subject matter. See M.P.E.P. § 804 (subpart I.B.1).

**B. Application No. 10/804,528 and *Karbowiak*:**

The Examiner provisionally rejects Claims 1, 3, 4, 14, 27, 40, 41, 53, and 54 on the ground of nonstatutory obviousness-type double patenting as unpatentable over claims 1, 8, 15, 22, 29, and 31 of co-pending Application No. 10/804,528 in view of U.S. Patent No. 4,663,748 issued to Karbowiak, et al ("*Karbowiak*"). As this is a provisional double patenting rejection, Applicants defer the decision to file a terminal disclaimer or traverse the rejection until the Examiner has indicated that both the present Application and co-pending Patent Application No. 10/804,528 include allowable subject matter. See M.P.E.P. § 804 (subpart I.B.1).

**II. Rejections under 35 U.S.C. § 102(b)**

The Examiner rejects Claims 1-5, 14, 18, 23, 27, 31, 40-44, and 53 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,993,025 issued to Vesel, et al. ("*Vesel*"). Applicants respectfully traverse this rejection and submit that *Vesel* does not describe, expressly or inherently, each and every limitation of the claims.

Consider Applicants' independent Claim 1, which recites:

An optical node comprising:  
a data interface operable to receive data for transmission to a destination node;  
a buffer operable to store the data;  
a transmitting unit operable to couple to an optical transmission medium having a plurality of data channels and to selectively transmit optical signals on the data channels; and  
a controller operable to receive a token authorizing transmission on one of the data channels, to generate a transmission control message identifying the destination node and the authorized data channel, to communicate the transmission control message for receipt by the destination node, to transmit the data on the authorized data channel using the transmitting unit after communicating the transmission control message, and to communicate the token to a next node.

Applicants respectfully submit that *Vesel* fails to describe every element of this claim.

Among other aspects, *Vesel* fails to disclose (1) "a controller operable to receive a token authorizing transmission on one of the data channels;" and (2) "to generate a transmission control message identifying the destination node and the authorized data channel," as Claim 1 requires.

**A. *Vesel* fails to describe a controller operable to receive a token authorizing transmission on one of the data channels.**

Claim 1 requires "a controller operable to receive a token authorizing transmission on one of the data channels." *Vesel* fails to teach these claimed aspects.

As describing these aspects, the *Office Action* relies on *Vesel*, column 6, lines 39-60. *Office Action*, p. 7. The cited portion of *Vesel* states, "[i]n the normal mode of operation, the token is passed after each transmission to assure equal access to the network by all nodes." col. 6, ll. 48-51. *Vesel* specifies that a "token" is a "control signal that is used to grant a node the privilege to transmit on the ring." *Vesel*, col. 6, ll. 51-52. Accordingly, *Vesel* fails to disclose "a first token authorizing transmission on one of the data channels," as Claim 1 requires. Thus, *Vesel* does not describe, expressly or inherently, "a controller operable to receive a token authorizing transmission on one of the data channels," as Claim 1 requires.

**B. *Vesel* fails to describe a transmission control message identifying the destination node and the authorized data channel.**

Claim 1 requires “to generate a transmission control message identifying the destination node and the authorized data channel.” *Vesel* fails to teach these claimed aspects.

As describing these aspects, the *Office Action* relies on *Vesel*, column 6, lines 39-60. *Office Action*, p. 7. In the cited portion, *Vesel* states, “[t]he transmitting node first sends a query to determine whether the destination node can accept the information packet.” *Vesel*, col. 6, ll. 54-56. However, *Vesel* fails to teach a “message identifying the destination node and the authorized data channel,” as Claim 1 requires. Thus, *Vesel* does not describe, expressly or inherently, “to generate a transmission control message identifying the destination node and the authorized data channel,” as Claim 1 requires.

Independent Claims 14, 27, 40, and 53 include limitations that, for substantially similar reasons, are not disclosed by *Vesel*. Because *Vesel* does not disclose, expressly or inherently, every element of independent Claims 1, 14, 27, 40, and 53, Applicants respectfully request reconsideration and allowance of Claims 1, 14, 27, 40, and 53 and their respective dependent claims.

**C. The Dependent Claims Include Many Separately Patentable Limitations**

As just one example, consider dependent Claim 2, which requires “to transmit the data in accordance with the timing information.” *Vesel* fails to teach these claimed aspects.

As describing these aspects, the *Office Action* relies on *Vesel*’s time base in figure 3A. *Office Action*, p. 7. With respect to the time base in figure 3A, *Vesel* describes “the duration that the data has been waiting in the queuing buffer.” Col. 5, ll. 11-12. However, *Vesel* fails to teach “transmit[ting] the data in accordance with the timing information,” as Claim 2 requires. Thus, *Vesel* does not describe, expressly or inherently, “transmit[ting] the data in accordance with the timing information,” as Claim 2 requires.

Applicants respectfully request consideration of the separately patentable limitations in this and the other dependent claims.

**III. Rejections under 35 U.S.C. § 103(a)**

**A. Claims 6, 19, 32, and 45 are patentable over the *Vesel-Dell* combination.**

The Examiner rejects Claims 6, 19, 32, and 45 under 35 U.S.C. § 103(a) as unpatentable over *Vesel* in view of U.S. Publication No. 2002/0136230 issued to Dell, et al. ("*Dell*").

As described above, *Vesel* fails to describe, expressly or inherently, each and every limitation of independent Claims 1, 14, 27, and 40. Accordingly, *Vesel* fails to teach or suggest every limitation of Claims 6, 19, 32, and 45 because these dependent claims incorporate the limitations of their respective independent claims. *Dell* fails to remedy the deficiencies of *Vesel*.

Thus, *Vesel* and *Dell*, whether taken alone or in combination, fail to teach or suggest all limitations of Claims 6, 19, 32, and 45. Because the references fail to teach or suggest all limitations of the claims, Applicants respectfully request reconsideration and allowance of Claims 6, 19, 32, and 45.

**B. Claims 7, 9, 20, 36, 46 and 49 are patentable over the *Vesel-Fumagalli* combination.**

The Examiner rejects Claims 7, 9, 20, 36, 46 and 49 under 35 U.S.C. § 103(a) as unpatentable over *Vesel* in view of U.S. Patent No. 7,092,663 issued to Fumagalli, et al. ("*Fumagalli*").

As described above, *Vesel* fails to describe, expressly or inherently, each and every limitation of independent Claims 1, 14, 27, and 40. Accordingly, *Vesel* fails to teach or suggest every limitation of Claims 7, 9, 20, 36, 46 and 49 because these dependent claims incorporate the limitations of their respective independent claims. *Fumagalli* fails to remedy the deficiencies of *Vesel*.

Thus, *Vesel* and *Fumagalli*, whether taken alone or in combination, fail to teach or suggest all limitations of Claims 7, 9, 20, 36, 46 and 49. Because the references fail to teach or suggest all limitations of the claims, Applicants respectfully request reconsideration and allowance of Claims 7, 9, 20, 36, 46 and 49.

**C. Claims 9, 13, 26, 35, 39, 48, and 52 are patentable over the *Vesel-Howe* combination.**

The Examiner rejects Claims 9, 13, 26, 35, 39, 48, and 52 under 35 U.S.C. § 103(a) as unpatentable over *Vesel* in view of U.S. Publication No. 2005/0058149 issued to Howe (“*Howe*”).

As described above, *Vesel* fails to describe, expressly or inherently, each and every limitation of independent Claims 1, 14, 27, and 40. Accordingly, *Vesel* fails to teach or suggest every limitation of Claims 9, 13, 26, 35, 39, 48, and 52 because these dependent claims incorporate the limitations of their respective independent claims. *Howe* fails to remedy the deficiencies of *Vesel*.

Thus, *Vesel* and *Howe*, whether taken alone or in combination, fail to teach or suggest all limitations of Claims 9, 13, 26, 35, 39, 48, and 52. Because the references fail to teach or suggest all limitations of the claims, Applicants respectfully request reconsideration and allowance of Claims 9, 13, 26, 35, 39, 48, and 52.

**CONCLUSION**

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicants respectfully request reconsideration and allowance of this Application.

If the Examiner feels prosecution of the present Application may be advanced by a telephone conference, Applicants invite the Examiner to contact the undersigned attorney at (214) 953-6584.

Although no fees are believed to be due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.  
Attorneys for Applicants

A handwritten signature in black ink, appearing to read 'K-P', followed by a horizontal line.

Kurt M. Pankratz  
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Date: 12/18/2007

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